

AMENDED IN SENATE JUNE 30, 2016

AMENDED IN SENATE JUNE 13, 2016

AMENDED IN SENATE FEBRUARY 17, 2016

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 874

**Introduced by Assembly Member Santiago
(Coauthor: Assembly Member Rendon)**

February 26, 2015

An act to amend Section 3513 of, and to add Section 3522.5 to, the Government Code, relating to the Judicial Council.

LEGISLATIVE COUNSEL'S DIGEST

AB 874, as amended, Santiago. Collective bargaining: Judicial Council.

Existing law, the Dills Act, governs collective bargaining between the state and recognized state public employee organizations. *Existing law excludes certain employees from coverage under the Dills Act, including, among others, managerial employees, supervisory employees, and confidential employees, as defined.* Existing law creates the Public Employment Relations Board and authorizes it, among other things, to determine appropriate state employee bargaining units, as specified. The California Constitution prescribes the membership of the California Supreme Court and requires the Legislature to create appellate court districts, all of which are vested with the judicial power of the state. The California Constitution prescribes the membership and duties of the Judicial Council and authorizes the council to appoint an

Administrative Director of the Courts. Existing law creates the Habeas Corpus Resource Center for the purpose of providing representation to people who are convicted and sentenced to death in this state and who are without counsel.

This bill would apply the Dills Act to employees of the Judicial Council, subject to specified exceptions. The bill would define an employee for these purposes as any employee of the Judicial Council, except managerial employees, confidential employees, and supervisory employees. *The bill would provide that the Judicial Council has the authority to designate state employee positions and confidential positions and would prohibit exempted managerial, supervisory, and confidential positions from exceeding $\frac{1}{3}$ of the total permanent full-time Judicial Council employees.* The bill would also except from this definition a judicial officer or employee of the Supreme Court, the courts of appeal, or the Habeas Corpus Resource Center, ~~as well as employees working under the supervision of the Office of Governmental Affairs or the Human Resources Services Office.~~ *Center.* The bill would define the employer, for purposes of bargaining or meeting and conferring, as the Administrative Director of the Courts, or his or her designated representatives, acting with the authorization of the chairperson of the Judicial Council. The bill would provide that references in the Dills Act to actions or decisions by the Governor, or his or her designated representative, shall mean actions or decisions by the Administrative Director of the Courts. The bill would prohibit the Public Employment Relations Board from including Judicial Council employees in a bargaining unit that includes employees other than those of the Judicial Council.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 3513 of the Government Code is amended
- 2 to read:
- 3 3513. As used in this chapter:
- 4 (a) "Employee organization" means any organization that
- 5 includes employees of the state and that has as one of its primary
- 6 purposes representing these employees in their relations with the
- 7 state.

1 (b) "Recognized employee organization" means an employee
2 organization that has been recognized by the state as the exclusive
3 representative of the employees in an appropriate unit.

4 (c) (1) "State employee" means any civil service employee of
5 the state, and the teaching staff of schools under the jurisdiction
6 of the State Department of Education or the Superintendent of
7 Public Instruction, except managerial employees, confidential
8 employees, supervisory employees, employees of the Department
9 of Human Resources, professional employees of the Department
10 of Finance engaged in technical or analytical state budget
11 preparation other than the auditing staff, professional employees
12 in the Personnel/Payroll Services Division of the Controller's office
13 engaged in technical or analytical duties in support of the state's
14 personnel and payroll systems other than the training staff,
15 employees of the Legislative Counsel Bureau, employees of the
16 Bureau of State Audits, employees of the office of the Inspector
17 General, employees of the board, conciliators employed by the
18 California State Mediation and Conciliation Service, employees
19 of the Office of the State Chief Information Officer except as
20 otherwise provided in Section 11546.5, and intermittent athletic
21 inspectors who are employees of the State Athletic Commission.

22 (2) "State employee" also has the meaning provided by Section
23 3522.5.

24 (d) "Mediation" means effort by an impartial third party to assist
25 in reconciling a dispute regarding wages, hours, and other terms
26 and conditions of employment between representatives of the
27 public agency and the recognized employee organization or
28 recognized employee organizations through interpretation,
29 suggestion, and advice.

30 (e) "Managerial employee" means any employee having
31 significant responsibilities for formulating or administering agency
32 or departmental policies and programs or administering an agency
33 or department.

34 (f) "Confidential employee" means any employee who is
35 required to develop or present management positions with respect
36 to employer-employee relations or whose duties normally require
37 access to confidential information contributing significantly to the
38 development of management positions.

39 (g) "Supervisory employee" means any individual, regardless
40 of the job description or title, having authority, in the interest of

1 the employer, to hire, transfer, suspend, lay off, recall, promote,
2 discharge, assign, reward, or discipline other employees, or
3 responsibility to direct them, or to adjust their grievances, or
4 effectively to recommend this action, if, in connection with the
5 foregoing, the exercise of this authority is not of a merely routine
6 or clerical nature, but requires the use of independent judgment.

7 Employees whose duties are substantially similar to those of their
8 subordinates shall not be considered to be supervisory employees.

9 (h) "Board" means the Public Employment Relations Board.
10 The Educational Employment Relations Board shall be renamed
11 the Public Employment Relations Board as provided in Section
12 3540. The powers and duties of the board described in Section
13 3541.3 shall also apply, as appropriate, to this chapter.

14 (i) "Maintenance of membership" means that all employees
15 who voluntarily are, or who voluntarily become, members of a
16 recognized employee organization shall remain members of that
17 employee organization in good standing for a period as agreed to
18 by the parties pursuant to a memorandum of understanding,
19 commencing with the effective date of the memorandum of
20 understanding. A maintenance of membership provision shall not
21 apply to any employee who within 30 days prior to the expiration
22 of the memorandum of understanding withdraws from the
23 employee organization by sending a signed withdrawal letter to
24 the employee organization and a copy to the Controller's office.

25 (j) (1) "State employer," or "employer," for the purposes of
26 bargaining or meeting and conferring in good faith, means the
27 Governor or his or her designated representatives.

28 (2) "State employer," or "employer," also has the meaning
29 provided by Section 3522.5.

30 (k) "Fair share fee" means the fee deducted by the state
31 employer from the salary or wages of a state employee in an
32 appropriate unit who does not become a member of and financially
33 support the recognized employee organization. The fair share fee
34 shall be used to defray the costs incurred by the recognized
35 employee organization in fulfilling its duty to represent the
36 employees in their employment relations with the state, and shall
37 not exceed the standard initiation fee, membership dues, and
38 general assessments of the recognized employee organization.

39 SEC. 2. Section 3522.5 is added to the Government Code, to
40 read:

1 3522.5. (a) This chapter shall apply to the Judicial Council
2 and its employees subject to the provisions of this section.

3 (b) For the purpose of applying this chapter to the Judicial
4 Council and its employees:

5 (1) "State employee" means an employee of the Judicial Council,
6 except a managerial employee, ~~confidential employee, or~~
7 ~~supervisory employee.~~ *employee or a confidential employee as*
8 *defined in (e).* "State employee" does not ~~include:~~

9 ~~(A) A include a judicial officer or employee of the Supreme~~
10 ~~Court, the courts of appeal, or the Habeas Corpus Resource Center.~~

11 ~~(B) An employee of the Judicial Council whose work is~~
12 ~~performed under the supervision of the Office of Governmental~~
13 ~~Affairs or the Human Resources Services Office.~~

14 (2) "State employer" or "employer," for purposes of bargaining
15 or meeting and conferring in good faith, means the Administrative
16 Director of the Courts, or his or her designated representatives,
17 acting with the authorization of the chairperson of the Judicial
18 Council.

19 (3) References to actions or decisions by the Governor, or his
20 or her designated representative, shall mean actions or decisions
21 by the Administrative Director of the Courts, or his or her
22 designated representative, acting with the authorization of the
23 Chairperson of the Judicial Council.

24 (c) Sections 3517.5, 3517.6, 3517.63, and 3517.7 shall not apply
25 to the Judicial Council and its employees.

26 (d) The board, as it determines appropriate bargaining units,
27 shall not include Judicial Council employees in a bargaining unit
28 that includes employees other than those of Judicial Council.

29 (e) *The Judicial Council has the authority to designate state*
30 *employee positions and confidential positions. Managerial,*
31 *supervisory, and confidential positions exempted under this*
32 *provision shall not exceed one third of the total permanent full-time*
33 *Judicial Council employees.*